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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

May 3, 2000

ORIGINAL

Magalie Roman Salas, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, TW-A325  
Washington, DC 20554

Ex Parte  
WT Docket 99-217 and CC Docket No. 96-98

Dear Ms. Salas:


On Tuesday, May 2, 2000, the undersigned met with Mark Schneider, Legal Advisor to Commissioner Ness, Ari Fitzgerald, Legal Advisor to Chairman Kennard and Helgi Walker, Legal Advisor to Commissioner Furchtgott-Roth; and on Wednesday, May 3, 2000 met with Adam Krinsky, Legal Advisor to Commissioner Tristani and Peter Tenhula, Legal Advisor to Commissioner Powell to discuss the above referenced proceeding. The attached materials were distributed at the meetings.

Pursuant to Section 1.1206(a), an original and one copy of this letter are being filed with our office. Please associate this letter with the file in the above-referenced proceeding.

Should you have any questions regarding this matter, please contact the undersigned.

Sincerely,

BROADBAND OFFICE COMMUNICATIONS

  
By: Kathleen Q. Abernathy  
Vice President, Public Policy

Enclosures

cc: Mark Schneider - w/o enclosures  
Ari Fitzgerald - w/o enclosures  
Helgi Walker - w/o enclosures  
Adam Krinsky - w/o enclosures  
Peter Tenhula - w/o enclosures

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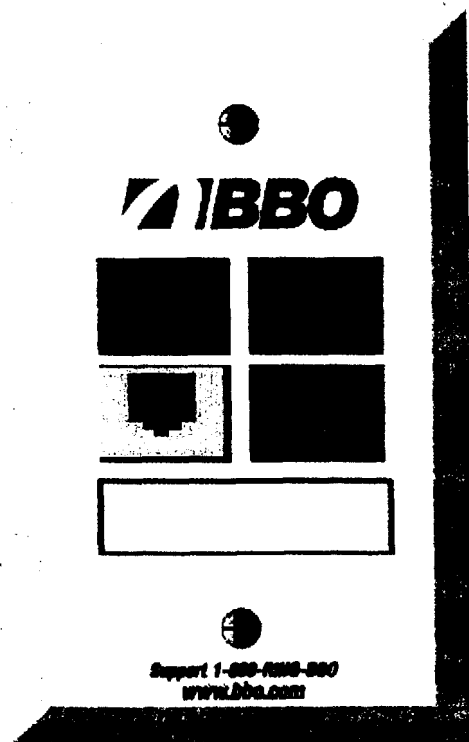
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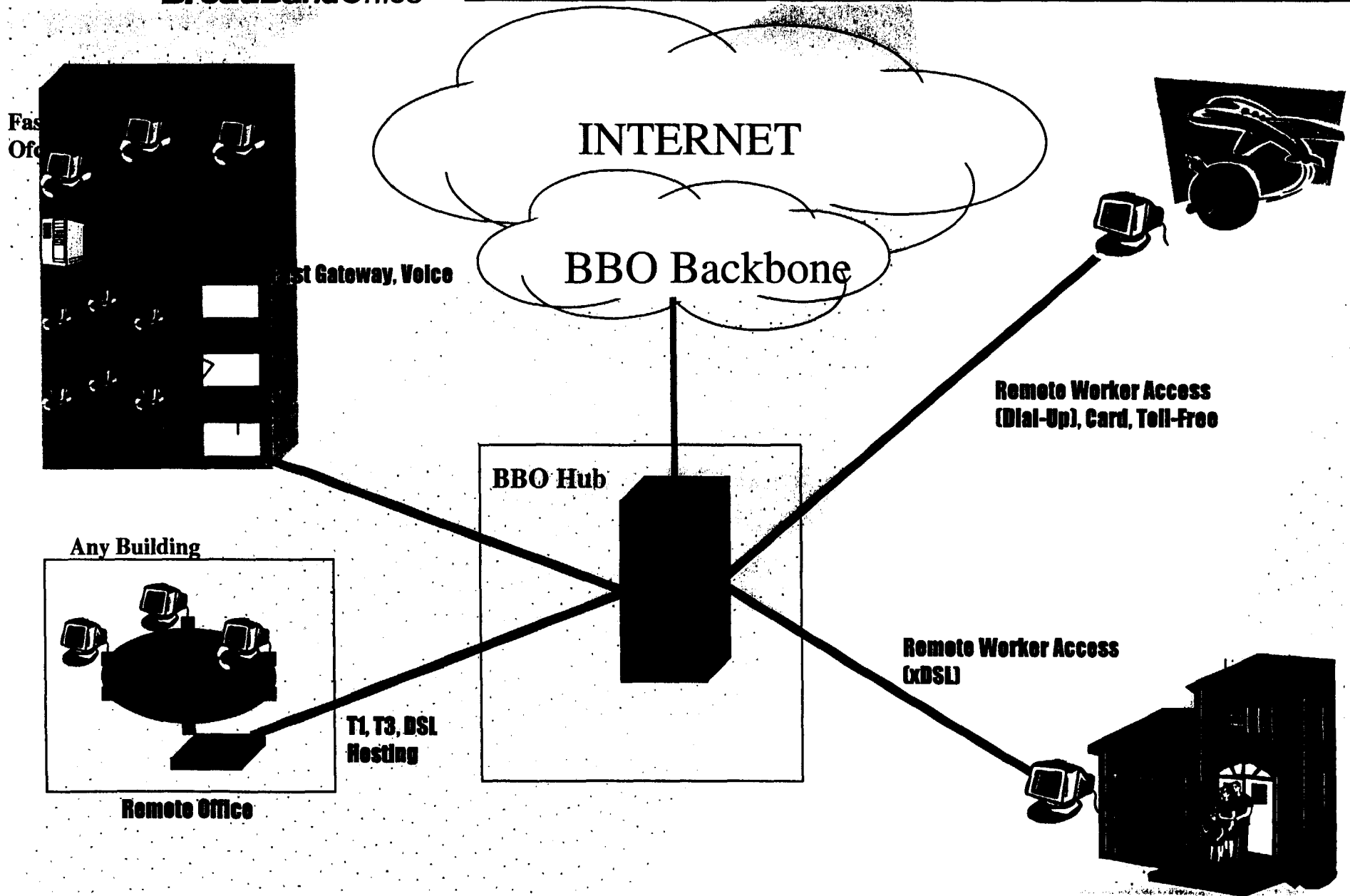
- BBO was formed by eight of the largest U.S. real estate companies and the leading Silicon Valley venture capital firm of Kleiner Perkins Caufield & Byers.
- BBO is a leading global network-based applications provider. Our customers will simply plug into a wall jack and immediately access a full range of communications, Internet services and E-business solutions.
- BBO's services will include local, long distance, and wireless voice services, as well as dedicated Internet access, and advanced Internet services such as remote access, virtual private networks, web-hosting, video and E-business solutions.
- Our goal is to help small and medium businesses (the "Fortune One Million") compete with the Fortune 100 with cutting edge telecommunications and technology tools.

Driving forces that led to BBO's creation:

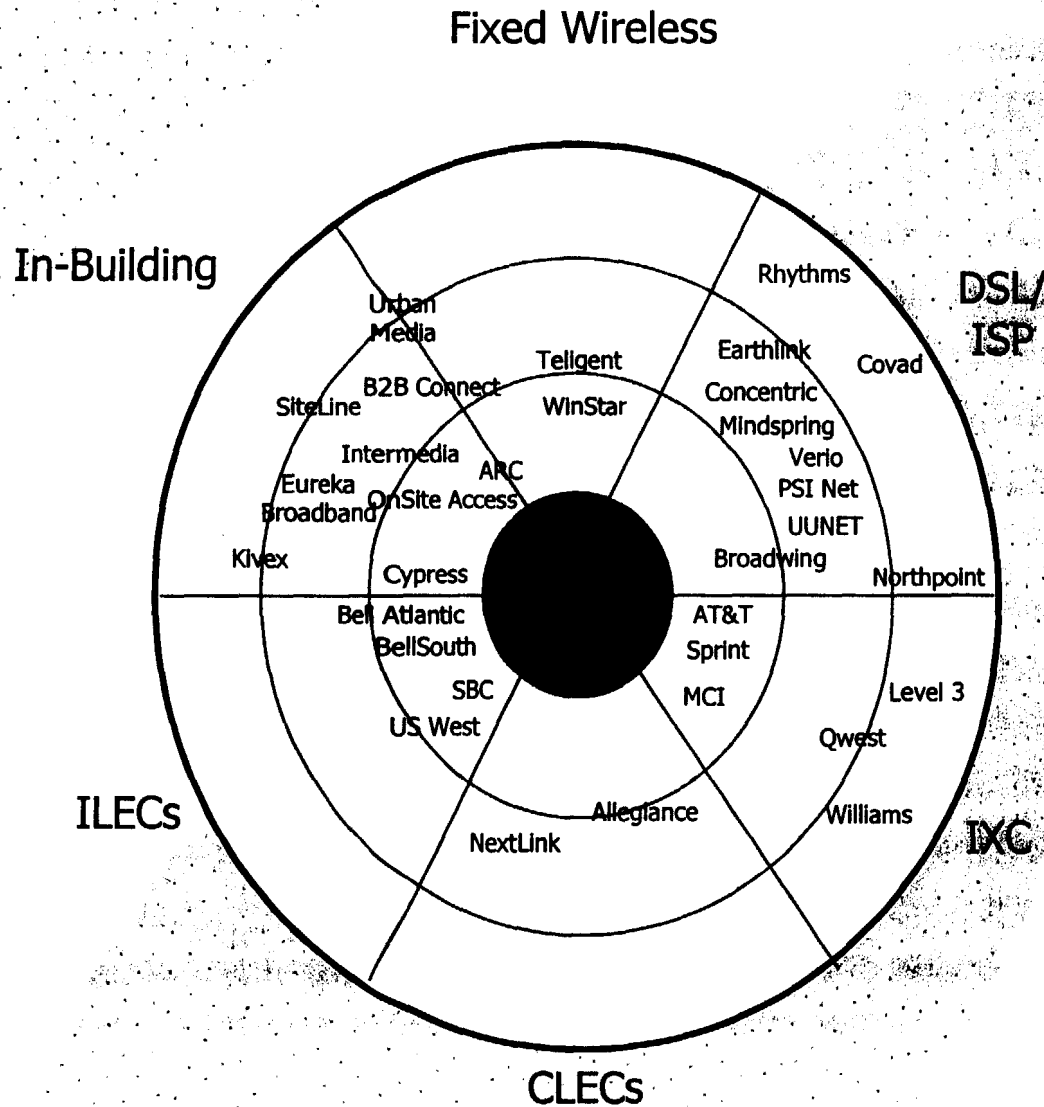
1. Property owner dissatisfaction with services provided by ILECs or CLECs who did not deliver on promises;
2. Market failure to address advanced telecommunications needs of small (fewer than 25 employees) and medium (fewer than 500) sized tenants; and
3. Desire to respond to the increasing competitiveness of the real estate marketplace by offering tenants greater value with "smart buildings".



# Metropolitan Network



# The Competitors!



- Companies closer to the center offer a greater bundle of services.
- There is significant overlap in the classifications—companies are categorized by their primary emphasis.
- The market is changing rapidly, with mergers and broadening service offerings.
- The market is extremely crowded and competitive with wary customers because of prior failed promises.
- BBO's success is dependent on ability to rapidly deliver comprehensive solutions that meet the needs of the small and medium businesses.

## **Preferred Partners**

- Tenant choice is paramount – they retain the right to select their own telecommunications service provider.
- Preferred real estate partners sign a contract in which they do the following:
  1. take an equity interest in BBO;
  2. agree to provide building access and assist in marketing BBO services to tenants on a preferred (but not exclusive) basis.

*Note: There are no exclusive arrangements! Building access is not restricted by these agreements.*

## **Non-Preferred Partners**

- Again, tenants retain the right to select their own telecommunications service provider.
- Partners sign a contract in which they
  1. Take an equity interest in BBO
  2. Agree to provide building access.

*Note: CLECs, like BBO, and wireless companies are all competing for building access to give tenants a new choice from the incumbent monopolist, the ILEC.*





## ***FCC Competitive Networks Proceeding***

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- BBO supports FCC goal “to foster competition in local telecommunications markets.”
- BBO was created in response to ILEC failure to address the increasing, critical telecommunications needs of small and mid-size tenants who seek to compete against larger players who can afford expensive IT solutions.
- As FCC reviews record in WT Docket 99-217, the focus should be on whether monopoly power by incumbents or market failure justifies regulatory action.
- Competition in buildings is increasing due to the activities of BBO and others. The only urgent requirement is to make sure that the ILECs do not maintain advantages because of their prior [and still predominant] monopoly status.

# ***FCC Competitive Networks Proceeding***

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- Important Fact: Building owners have never exercised monopoly power over their tenants. Because of the significant competitive forces that exist in the real estate market, building owners have every incentive to offer tenants high quality telecom services at competitive prices.
- Even assuming Congress may decide to grant the FCC jurisdiction over building owners and private property, there is no market failure that would justify regulatory intervention aimed at building owners.
- Property owners wish to retain the ability to manage access to the building to ensure tenant rights and choices are respected, capacity constraints are managed, and construction disruption to all tenants is minimized.

# ***FCC Competitive Networks Proceeding***

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- With more than 70 companies licensed to provide competitive local telephone service across the United States, the need for a landlord to retain the ability to manage building access is undeniable.
- Forced access to buildings harms tenants.
- BBO believes it will succeed as a CLEC because of its ability to rapidly and simply provision service, its exceptional customer service, and its innovative solutions aimed at responding to the unmet telecom needs of small and mid-size tenants.

## ***FCC Competitive Networks Proceeding***

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- BBO does not believe regulatory mandates aimed at private building owners are necessary and urges restraint.
- BBO does support, however, the FCC's efforts to ensure that utilities comply with Section 224 of the Communications Act by providing telecommunications carriers with nondiscriminatory access to conduits or rights-of-way that they own or control.
- By ensuring that the ILECs do not engage in discriminatory practices that favor their own CLECs, the FCC can best encourage the continued growth and development of competition.